

**FISCAL NOTE**  
**SB 1471 - HB 884**

March 19, 2001

**SUMMARY OF BILL:** Requires the court to order individuals convicted of a DUI within five years of a prior conviction to undergo a drug and alcohol assessment and receive treatment as appropriate. Requires individuals convicted of a DUI within five years of a prior conviction to only operate a motor vehicle or motorcycle with an ignition interlock device for a period of six months after the license revocation period unless they are operating a vehicle owned or provided by their employer in the course of their employment. Provides for funds from the Alcohol and Drug Addiction Treatment Fund to be used to pay costs associated with the ignition interlock device. Requires the Department of Transportation to make funds available in the form of grants if there are insufficient funds in the Treatment Fund to provide drug and alcohol assessments and treatment. These provisions would take effect October 1, 2001. Reduces the blood alcohol concentration (BAC) limit from 0.10% to 0.08% at which it is unlawful to operate a motor vehicle. Eliminates the offense of adult driving while impaired. The effective date of the 0.08% provisions is September 30, 2003.

**ESTIMATED FISCAL IMPACT:**

**REPEAT OFFENDER PROVISIONS:**

**Increase State Expenditures - Exceeds \$1,000,000/Alcohol and Drug Addiction Treatment Fund**

**Other Fiscal Impact -**

**1) Transfers a sum sufficient amount from the Highway Safety Fund to the Alcohol and Drug Addiction Treatment Fund in the event the Treatment Fund does not have sufficient funding for the treatment and ignition interlock requirements of this bill.**

**2) In the absence of the enactment of a repeat offender law, \$5,700,000 in federal funds for FY01-02 and \$11,400,000 for FY02-03 and subsequent years currently used for the Surface Transportation Program, Interstate Maintenance, or the National Highway System would be restricted for use through required transfer to Section 402 safety programs.**

**.08 PROVISIONS:**

**Increase State Revenues - Not Significant/General Fund FY03-04 & thereafter  
Exceeds \$100,000 FY04-05 & thereafter**

**Decrease State Revenues - Exceeds \$1,500,000/Alcohol and Drug  
Addiction Treatment Fund FY03-04 & thereafter**

**Increase State Expenditures - FY03-04 & thereafter  
\$651,500  
\$450,000/Indigent Defense Fund  
\$203,800/Incarceration\***

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**Increase Local Govt. Revenues - Exceeds \$750,000 FY03-04 & thereafter**  
**Increase Local Govt. Expenditures\*\* - Exceeds \$500,000 FY03-04 & thereafter**

**Other Fiscal Impact - If a law complying with the federal requirement related to the establishment of .08 BAC as the national standard for impaired driving is not enacted by October 1, 2003 the state will be subject to the withholding of federal highway construction funds estimated to be \$7,800,000 in FY03-04, \$15,500,000 in FY04-05, \$23,300,000 in FY 05-06, and \$31,000,000 in FY 06-07.**

*Repeat Offender Provisions estimate assumes:*

- drug and alcohol assessments could be performed within existing resources as there is already an assessment procedure in place.
- approximately 3,000 multiple offenders would be subject to assessment.
- the court will order 1,000 into treatment programs. The cost of the treatment program is approximately \$2,300. 50% of these individuals will pay for their own treatment.
- 1,000 offenders will be required to get the ignition interlock device. The cost of installing and monitoring such device for six months is \$450 each. 75% of these offenders will pay for their own ignition interlock device.
- the Alcohol and Drug Addiction Treatment Fund would not require additional funds until the repeal of the DWI law under the .08 provisions of the bill results in the loss of revenue to the Fund. Beginning in FY03-04, the Governor's Highway Safety Fund may make a grant to the Alcohol and Drug Addiction Treatment Fund for the cost of treatment for indigent offenders.
- Under T.C.A. 55-10-403(a)(4)(B), "the court is not empowered to order the expenditure of public funds to provide treatment"; therefore, the use of the Alcohol and Drug Addiction Treatment Fund or other public funds to pay for treatment under the provisions of the bill is assumed to be permissive.
- the use of Highway Safety Funds may be restricted to an extent that the grant provided for in the bill is not possible under federal requirements.

*.08 Provisions estimate assumes:*

- an increase in state revenues from fees associated with an increased number of arrests for DUI. This increase is estimated to be not significant.
- an increase in state revenues from driver license reinstatement fees from DUI license suspensions paid in the second and subsequent years.
- 3,000 additional DUI convictions under the provisions of the bill. This figure is based on the number of convictions for adult driving while impaired in FY 99-00.
- a decrease in state revenues from fines collected for adult driving while impaired violations. Under current law, a .08 BAC reading for a first offense is punishable by fine only with revenues earmarked for the Alcohol and Drug Addiction Treatment Fund. A supplemental appropriation would be required to continue the program at the same level or services will be at a reduced level.
- an increase in state expenditures for the equivalent of 7 assistant district attorneys with salary and benefits of \$380,000 to handle the additional DUI cases including 18% of defendants requesting a trial in circuit court.

- 60% of defendants, which represents the statewide average, will be indigent for the purposes of counsel and half of these cases will be handled by public defenders requiring 5 assistant public defenders with salary and benefits of \$271,500. The other half will require appointed counsel for an increase in expenditures to the Indigent Defense Fund of \$450,000. It would be less expensive to add additional public defenders in areas of concentrated population as opposed to appointing counsel. Shelby and Davidson Counties are not part of the statewide public defender system.
- an increase in local government revenues from fines levied and collected under the provisions of the bill. Based on payment of the minimum fine of \$350 for a first offense DUI and a 75% rate of collection, this increase is estimated to exceed \$750,000.
- an increase in local government expenditures for the expense of confining those convicted under the provisions of the bill. Assumes a majority of these convictions will be for first offenses with at least the mandatory minimum 48 hours served. Those convicted of a second offense will serve the mandatory minimum of 45 days and those convicted of a third offense will serve the mandatory minimum 120 days. The average cost to confine an offender is \$44 per day. The increase in expenditures is estimated to exceed \$500,000.
- 4 additional convictions for vehicular homicide by intoxication and 6 additional convictions for vehicular assault. This estimate is based on a 10% increase in the number of persons convicted of vehicular homicide by intoxication, a Class B felony, and the number of persons convicted of vehicular assault, a Class D felony.

*\*Section 9-4-210, TCA, requires that: For any law enacted after July 1, 1986, which results in a net increase in periods of imprisonment in state facilities, there shall be appropriated from recurring revenues the estimated operating cost of such law. The amount appropriated for operating cost, in current dollars, shall be based upon the highest cost of the next 10 years, beginning with the year the additional sentence to be served impacts the correctional facilities population.*

*\*\*Article II, Section 24 of the Tennessee Constitution provides that: no law of general application shall impose increased expenditure requirements on cities or counties unless the General Assembly shall provide that the state share in the cost.*

## **CERTIFICATION:**

This is to duly certify that the information contained herein is true and correct to the best of my knowledge.



James A. Davenport, Executive Director